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**SECRETARY, BOARD OF
OIL, GAS & MINING**

**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

IN THE MATTER OF THE REQUEST FOR AGENCY ACTION OF BERRY PETROLEUM COMPANY FOR AN ORDER ESTABLISHING 1,280 ACRE DRILLING UNITS FOR HORIZONTAL WELLS FOR PRODUCTION OF OIL AND GAS FROM THE UTELAND BUTTE MEMBER OF THE LOWER GREEN RIVER FORMATION UNDERLYING SECTIONS 4 AND 5 IN TOWNSHIP 5 SOUTH, RANGE 6 WEST, USM, AND SECTIONS 31 AND 32 IN TOWNSHIP 4 SOUTH, RANGE 5 WEST, USM, DUCHESNE COUNTY, UTAH.

**AMENDED REQUEST
FOR AGENCY ACTION**

Docket No. 2012-020

Cause No. 139-92

BERRY PETROLEUM COMPANY ("Petitioner"), by and through its attorneys, Holland & Hart LLP, hereby amends Petitioner's Request for Agency Action filed April 10, 2012, and on file in this cause ("Request"). Petitioner originally requested an order "allowing for two horizontal wells per drilling unit for the production of oil and gas from the Lower Green River/Wasatch Formation...." After further consideration, Petitioner has decided to request an order allowing only one horizontal well per drilling unit for production of oil and gas from the Uteland Butte Member of the Lower Green River Formation.

Additionally, the private (fee) lands were erroneously identified in Paragraph 3 of the original Request as the S½ of Section 31. The fheaheel lands are properly described as the NE¼NE¼, S½NE¼, and the NW¼SE¼ of Section 31, and the NW¼NW¼ of Section 32.

In the interests of clarity and in order to provide complete notice of the contents of the amended Request, Petitioner restates the Request, as amended, in its entirety as follows:

BERRY PETROLEUM COMPANY (“Petitioner), by and through its attorneys, Holland and Hart LLP, pursuant to Utah Code Ann. 40-6-5(3)(b) and 40-6-6, hereby requests the Utah Board of Oil, Gas and Mining (the “Board”) to enter an order establishing 1,280 acre drilling units, allowing one horizontal well per unit, for the production of oil and gas from the Uteland Butte Member of the Lower Green River Formation underlying the following lands:

Township 5 South, Range 6 West, USM

Section 4: All

Section 5: All

Township 4 South, Range 5 West, USM

Section 31: All

Section 32: All

In support of its Amended Request for Agency Action ("Request"), Petitioner respectfully states and represents:

1. Petitioner is a Delaware corporation in good standing having its principal place of business in Denver, Colorado. Petitioner is qualified to do business in Utah and is fully and appropriately bonded with all Federal, Indian, and State of Utah agencies.

2. The Board has jurisdiction of the parties and of the subject matter of this Request pursuant to Utah Code Ann. § 40-6-1, *et seq.*

3. The Subject Lands are within the area generally known as the Lake Canyon field. The oil, gas and associated hydrocarbons underlying the NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32 are held in private (fee) ownership and are currently under lease. All other oil, gas and associated hydrocarbons underlying the Subject Lands are Indian lands. The Indian lands are subject to existing leases or an Exploration and Development Agreement between the Ute Indian Tribe, Ute Distribution Corporation and Berry Petroleum Company, and approved by the United States Bureau of Indian Affairs (the "E&D Agreement"). Petitioner owns a majority of working interest in the existing leases, or leases to be issued under the E&D Agreement, in Sections 4 and 5. Petitioner owns a minority of the working interest in the existing

leases, or leases to be issued under the E&D Agreement, in Sections 31 and 32, but has been designated operator of these sections.

4. The interval comprising the Uteland Butte Member of the Lower Green River Formation is defined for purposes of this Request as:

the stratigraphic interval from the top of the Uteland Butte Member at 4,596 feet to the base of the Uteland Butte Member at 4,810 feet as measured in the Berry Petroleum Company LC Tribal 3-5-56 Well located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, Township 5 South, Range 6 West, USM.

5. The Subject Lands currently are not subject to any spacing order of the Board. All wells drilled on the Subject Lands have been located in accordance with the Utah Division of Oil, Gas and Mining's ("DOGM") and the Board's general rules, including the well location and siting rules contained in Utah Admin. Code R649-3-2.

6. Utah Admin. Code R649-3-2(3) through (7) govern the drilling of horizontal wells. These rules: (1) provide that no portion of the horizontal interval may be located closer than 660 feet to a drilling or lease or spacing unit boundary; (2) establish a "temporary six hundred and forty (640) acre spacing unit" for a horizontal well; and (3) require that the horizontal interval may not be located closer than 1,320 feet to any vertical well. Exceptions to these rules may be administratively granted by DOGM in accordance with Utah Admin. Code 9-3-2(9).

7. Currently, only two vertical wells, the LC Tribal 8-4-56 Well, located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 4, and the LC Tribal 3-5-56 Well, located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, are producing on the Subject Lands. Petitioner has also filed applications for permit (“APD”) for the following vertical wells:

<u>Well</u>	<u>Location</u>	<u>Status</u>
LC Tribal 14-4-56	Section 4: SE $\frac{1}{4}$ SW $\frac{1}{4}$	Approved, not spudded
LC Tribal 5-4-56	Section 4: SW $\frac{1}{4}$ NW $\frac{1}{4}$	Approved, not spudded
LC Tribal 2-5D-56	Section 5: NW $\frac{1}{4}$ NE $\frac{1}{4}$	Approved, not spudded
LC Tribal 10-31D-45	Section 31: NW $\frac{1}{4}$ SE $\frac{1}{4}$	Approved, spudded
LC Tribal 3-31-45	Section 31: NE $\frac{1}{4}$ NW $\frac{1}{4}$	Permit filed
LC Tribal 16-32D-45	Section 32: SE $\frac{1}{4}$ SE $\frac{1}{4}$	Permit filed

These wells have been, and will continue to be, located in accordance with the default location and siting rules contained in Utah Admin. Code R649-3-2.

8. Through this Request, Petitioner is seeking establishment of 1,280 acre spacing units for the Uteland Butte Member of the Lower Green River Formation allowing one horizontal well per drilling unit consisting of Sections 4 and 5 and Sections 31 and 32. As stated above, the default rules for horizontal wells create a temporary 640 acre spacing unit. However, in order to enable the drilling of laterals traversing two

sections, 1,280 acre spacing units are required. Creation of these drilling units requires an order of the Board.

9. Also, since ownership within Sections 31 and 32 are not uniform, and contain both Indian and fee lands, a communitization agreement is required in order to pool the lands contained in Sections 31 and 32. Thus, communitization of the 1,280 acre spacing unit requires the Board to approve a 1,280 acre spacing unit for these lands.

10. The horizontal drilling units sought by this Request will be, upon approval of the Request and consistent with the DOGM and the Board's general rules and prior precedent, applicable only to these horizontal wells. Existing and future vertical wells will continue to be located and drilled in accordance with the general location rules, pursuant to Utah Admin. Code R649-3-2(5) which provides that "[v]ertical wells drilled to and completed in the same formation as in a horizontal well are subject to applicable drilling unit orders of the board or the other conditions of this rule that do not specifically pertain to horizontal wells and may be drilled and produced as provided therein." (emphasis added). The rule further provides that "[a]ny horizontal interval shall not be closer than one thousand three hundred and twenty (1,320) feet to any vertical well completed in and producing from the same formation." *Id.* Thus, under the current rules, the drilling unit established for a horizontal well is separate from the location and siting

rules associated with vertical wells. The vertical wells will continue to be located in accordance with DOGM and the Board's general well location and siting rules, provided that such wells comply with the 1,320 set-back requirements outlined in the rules, or other distance agreed to by the Petitioner and DOGM and contained in the final order, or an exception location is approved by DOGM as provided in Utah Admin. Code R649-3-3.

11. In order to properly allow for communitization, Petitioner requests that the 1,280 acre drilling units for the horizontal wells requested herein be granted effective as of the date of first production for each of the horizontal wells, if completed.

12. Petitioner believes that the requested order will allow for the orderly development of the Subject Lands, will prevent waste, will adequately protect the correlative rights of all affected parties and is just and reasonable.

13. Petitioner is filing, concurrent with the filing of this Request, a separate certificate of mailing which lists all persons known to Petitioner whose legally protected interests in the Subject Lands will be affected by this Request, together with their last known addresses. Said list contains the names and addresses of known mineral owners (lessors), overriding royalty or other production interest owners, working interest owners

(lessees) and active producers and operators. There are no respondents or adverse parties known at this time to Petitioner.

WHEREFORE, Petitioner respectfully requests that:

1. This Request be set for hearing at the regularly scheduled meeting of the Board on May 23, 2012.

2. That due notice of such hearing be given as provided by law.

3. That following said hearing, the Board enter an order:

(a) Providing for the establishment of 1,280 acre drilling units comprising Sections 4 and 5 and Sections 31 and 32, allowing one horizontal well per drilling unit for the production of oil and gas from the Lower Green River Formation covering the Subject Lands.


(b) Allowing the continued location and drilling of all vertical wells, including existing and future wells, within the Subject Lands in conformance with the requirements outlined in Utah Admin. Code R649-3-2 and Utah Admin. Code R649-3-3, including the 1,320 set-back requirement between vertical and horizontal wells, or other distance agreed to between the Petitioner and DOGM;

(c) Making such findings and orders in connection with this Request as it deems necessary.

(d) Providing for such other and further relief as may be just and equitable under the circumstances.

Respectfully submitted this 4th day of May, 2012.

BERRY PETROLEUM COMPANY

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